



Virginia
Regulatory
Town Hall

Periodic Review and Retention of Existing Regulations Agency Background Document

Agency Name:	Virginia Department of Labor and Industry/ Safety and Health Codes Board
VAC Chapter Number:	16 VAC 25-35-10 et seq
Regulation Title:	Regulation Concerning Certified Lead Contractors Notification, Lead Project Permits, and Permit Fees
Action Title:	Periodic Review of Regulation Pursuant to Executive Order 25 (98)
Date:	July 17, 2000

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

16 VAC 25-35-10 et seq. applies to all lead abatement contractors who engage in lead abatement projects that require certification by the Department of Professional and Occupational Regulation. The regulation addresses the notification requirement for certain lead abatement projects and provides for the payment of fees based on the dollar amount of the contract.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

Section 40.1-51.20 of the Code of Virginia mandates that all certified lead contractors notify the Department of Labor and Industry prior to commencement of each lead abatement project in which certification is required by the Department of Professional and Occupational Regulation. The contractor shall also obtain a lead permit and pay the appropriate fee in accordance with this Code section. This regulation establishes the notification requirements and provides that the Department of Labor and Industry conduct on-site inspections of each certified lead contractor's actual abatement projects. This regulation does not exceed the mandate required by Section 40.1-51.20.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No public comments were received on this regulation during the 30 day public comment period which began April 24, 2000. The agency and the Safety and Health Codes Board did not establish an informal advisory group for the purpose of assisting in the periodic review.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The regulation has three goals:

1. Reduce the incidence of material impairment of the health of Virginians due to exposure to lead in the workplace or as an environmental pollutant.
2. Require certified lead abatement contractors to notify the government of lead abatement projects and pay fees to cover the cost of administering the program.
3. The protection of the public's health, safety and welfare with the least possible cost and intrusiveness.

The regulation provides for the identification of certain lead abatement projects and the tracking of active projects. Section 40.1-51.21 of the Code of Virginia requires that at least once a year, during an actual project, the Department of Labor and Industry conduct an on-site, unannounced inspection of each certified lead abatement contractor's procedures in regard to the removal of lead-based paint. This inspection ensures protection of the health of the workers and also the health of the general public by controlling the release of lead into the environment or residence. The regulation also provides a concise procedure for the notification and payment of fees associated with lead projects. Inspections conducted in accordance with this regulation have shown a consistent decline in violations of both safety and health work practices, resulting in decreased material health impairment of both employees and the public. There is no impact on the institution of the family or family stability. The regulation is clearly written and easily understandable.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

The Department of Labor and Industry did not consider any alternatives to this regulation because it is mandated by state law.

Recommendation

Please state that the agency is recommending that the regulation should stay in effect without change.

The Department of Labor and Industry and the Safety and Health Codes Board recommend retaining the regulation without change.

Family Impact Statement

Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.

This regulation has no impact on the institution of the family or family stability.